IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 14TH JULY 2006 / 23RD ASHADHA,1928

Bail Appl..No. 4109 of 2006

(CRIME NO.101/2006 OF CHOKLI POLICE STATION)

.....

PETITIONER/IST ACCUSED,.

KIZHAKKUMPURATH KUNCHI MOOSA HAJI,
AGED 62 YEARS, S/O.MAMMAD HAJI,
KIZHAKKUMPURATH HOUSE, PERINGATHOORE P.O
THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.NOUSHAD THOTTATHIL
SRI.GEORGEKUTTY JACOB

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, CHOKLI POLICE STATION,
CHOKLI P.O. THALASSERY, KANNUR DISTRICT, BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A.4109/2006

DATED THIS THE 14TH DAY OF JULY, 2006

O R D E R

The petitioner is the first accused, in crime No.101/2006 of Chokli Police station, for the offence punishable under Sections 307 and 294(b) IPC read with Section 34 IPC and also under Sections 27 and 25(1)(a) read with Section 5 of Arms Act. It is alleged that the petitioner shot at one Hashim and caused him injuries on his forearm, on 15.6.2006 at 21.15 hours.

2. It is the case of the prosecution that the bullet recovered from the place of occurrence is not usable with the weapon, which is alleged to had been used by the petitioner. However, the submission is that the petitioner is holding a licensed pistol. The prosecution however, submitted that the petitioner had not so far produced the said pistol and he also stated the same is in his residence, at the business place in Chennai.

3. The counsel for the petitioner submitted that

the petitioner is a heart patient and even during his judicial detention, he is undergoing the treatment from a hospital. The learned Public Prosecutor on the other hand continued to submit that the custody application had been moved before the Court below. Despite the repeated adjournments of this application, he could not get specific instructions from the investigating agency, whether the custody application had been allowed or not. In such circumstances, I dispose of this petition, with the following conditions:-

> (a). If any application is filed for the custody of the accused, he shall be released to the custody, subject to the medical opinion, if any, required by the learned Magistrate, within three days from the production of the copy of this order.
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> (b). After the interrogation of the petitioner, if any, granted, the learned Magistrate shall release the petitioner on bail, imposing such conditions, which are deemed necessary.

(c). The directions that would be passed by the learned Magistrate shall be in keeping with the medical opinion, if any, that may be supplied either by the petitioner or by the investigating agency, as the case may be.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs